IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 6033 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

SUO-MOTU

Versus

JAYESHKUMAR VADILAL PATEL

Appearance:

1. Criminal Misc.Application No. 6033 of 2003

SUO MOTU for Petitioner No. 1

MR BM MANGUKIYA for Respondent No. 1

MS BELA A PRAJAPATI for Respondent No. 1

Mr.Kogje, Addl.PUBLIC PROSECUTOR for Respondent No. 2

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 09/12/2003

ORAL JUDGEMENT

The present proceedings are initiated upon the suo motu notice issued by this court (K.M.Mehta,J) while considering the case for bail in Cri.M.A.No.3829/03.

2. The short facts of the case appear to be that a complaint is filed vide CR No.388/02 of Visnagar Police Station and one of the accusations in the complaint was that loan of Rs.5,38,000/- was procured by respondent-Jayeshkumar Vadilal Patel on the name of Siddheshwari Silk Mills, but there is no existence of such firm nor the amount is used for the purpose of purchase of the mill. The accused Jayeshkumar Vadilal Patel preferred bail application before the Ld.Sessions Judge being Cri.M.A.No.360/03 and ultimately the Ld.Sessions Judge released the said accused on bail as per order, dated 29.4.03. This court (Coram: K.M.Mehta,J) while passing the order on 7.7.03 upon the application being Cri.M.A.No.3829/03 filed by Ishwarbhai Tribhuvandas Patel observed at para 6 as under:

"6. In this case, learned advocate for the petitioners accused has stated that in this case one of the contentions raised by the petitioners that the petitioners had granted loan to Siddheshwari Silk Mills of Rs.5.38 lacs and in the transaction the address of Siddheshwari Silk Mills was stated as 66/1 Gunj Bazar, Visnagar. However, when the same was inquired it was found that at that address Siddheshwari Silk Mills do not exist. Inspite of this fact, the learned trial judge has granted bail to Jayeshkumar Vadilal Patel who had obtained the loan and also to one Manorbhai Girdharbhai Patel who were guarantors of the said loan have been granted bail by the Ld.Addl.Sessions Judge, Mehsana by his order, dated 29.4.2003. In view of this order, it was pointed out that the petitioners may also be granted bail though outstanding amount of Rs.5.76 lacs and Rs.70,000/- which has been due and payable by them."

In view of the aforesaid the court further passed order for issuing notice for cancellation of bail granted to the accused-Jayeshkumar Vadilal Patel.

3. This matter was heard earlier and this court on 2.12.2003 while admitting the petition had recorded the assurance given by Mr.Mangukia that the accused shall remain present personally on8.12.2003. Yesterday, the

matter was listed and since Mr.Mangukia had filed sick note matter is taken up today. However, Ms.Bela Prajapati for Mr.Mangukia had identified the accused Jayeshkumar Vadilal Patel who remained present personally yesterday. During the course of hearing the Ld.advocate for the accused Mr.Mangukia with Ms.Bela Prajapati declared before the court that the accused is ready and willing to deposit the amount of Rs.5.38 lacs without admitting his guilt. However, it is submitted that some reasonable time may be given and the accused be allowed to be continued on bail on such condition.

4. I would have considered the matter further for the purpose of recording the reasons for releasing the accused on bail by the learned Sessions Judge without imposing proper condition in the matter of such white collar economic crimes. However, in view of the aforesaid declaration made by the Ld.counsel for the accused I find that the interest of justice would be met if the order passed by the Ld.sessions judge releasing the accused on bail dated 29.4.03 is modified to the effect that the accused shall deposit the total amount of Rs.5.38 lacs, out of which Rs.50% shall be deposited within a period of 15 days from today and the remaining balance of 50% shall be deposited within a period of 15 days thereafter. The aforesaid condition shall be with clarification that in the event the accused fails to deposit the amount with the trial court within the aforesaid stipulated period, the bail granted to the petitioner shall automatically stand cancelled and the police shall arrest the accused and take him to judicial custody.

5. The order passed by the learned Sessions Judge shall stand modified accordingly. Rule is made absolute accordingly to the aforesaid extent.

DS permitted.

9.12.2003 (JAYANT PATEL,J)